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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 33045 of 1993

M/s. AALWEL Advertising Associates,
No.25/1, (new No.6) Andree Road,
Shanthinagar, Bangalore - 560 027,
by its Partner

Mr. Syed Sirajuddin,

s/o late Syed Zainulabedin,

..Petitioner

(By Sri Satish G. Raikar, Advocate)

-Vs-

1. The Bangalore City
Corporation, by its
Commissioner, J. C. Road,
Bangalore - 560 002;

2. Assistant Revenue Officer,
(Advertisement & Tax),
Bangalore City of Corpora-
tion, J.C. Road, Bangalore-2 ..Respondents

(By Sri K.N.Puttegowda, Advocate)

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Writ Petition is filed praying to declare that the permission/licence applied for by the petitioner for erecting hoardings as per Annexure-A, A-1, and A-2 on the sites in question shall be deemed to have been granted under Section 443 (10) of the KMC Act, 1976.

This writ petition coming on for hearing this day, the Court made the following:-

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O R D E R

Petitioner is an advertising agency. It claims to have made an application dated 30-1-1993 [Annexure-A] to the first respondent seeking permission to erect hoardings in a private land i.e., at the junction of roads in the Muslim Grave-Yard, Ulsoor, Bangalore. According to the petitioner, the said application was received by the Corporation on 2-2-1993, but the Corporation failed to either reject or consider the same. Similarly, the petitioner claims to have made an application dated 30-1-1993 [Annexure-A1] for erecting a hoarding in a private land on top of House No.6(14), Kasturinagar Layout, Magadi Road, P.O., Bangalore and the same was duly acknowledged by the Corporation on 2-2-1993. The petitioner also claims to have made another application dated 26-4-1993 [Annexure-A2] for erecting a hoarding on the terrace of Islami Baithul Maal, No.5, Sultanji Gunta Road, Bangalore. But the Corporation had failed to take any action thereon, nor were the said applications rejected. Therefore, it contends that there is a deemed permission under Section 443(10) of the Karnataka

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Municipal Corporations Act, 1976 ['the Act' for short]. Hence, the petitioner has filed this petition seeking a declaration that the permission/licence applied for by the petitioner for erecting hoardings at the aforesaid ^{15 res} ~~two~~ sites as per its applications Annexures A, ^{A1 and A2} ~~and C~~ shall be deemed to have been granted under Section 443(10) of the Act and seeking a direction to the respondents to assess the said hoardings to tax and collect the same from the petitioner.

2. In EMPIRE PUBLICITY SERVICE vs COMMISSIONER, BANGALORE MAHANAGAR PALIKE, ILR 1997 KAR 2868, this Court held that having regard to the specific provision for obtaining written permission of the Commissioner under Section 135 of the Act for the purpose of displaying the advertisement, the deemed permission under Section 443(10) of the Act cannot be treated as permission under Section 135 of the Act and, therefore, without there being a written permission of the Commissioner after determining the levy of tax under Section 134 of the Act, no person is entitled to display advertisements on the hoardings in Bangalore City. The petition is covered by the said decision.

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3. In view of the above, the petitioner is not entitled to claim any benefit on the basis of any deemed permission. The petition is therefore dismissed.



Sd/-
JUDGE

Bnr/-